

## **II. Remarks:**

### **A. Status of the Specification and Claims**

The specification has been amended to include nucleic acid sequence identifiers (*i.e.*, “SEQ ID NO:\_\_\_.” No new matter has been added by these amendments.

Claims 1-35 were pending when the Restriction and Species Election Requirement dated January 19, 2005, was issued from the U.S. Patent Office. No claims have been canceled, amended, or added. Therefore, claims 1-35 are currently pending.

### **B. Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence Disclosures**

The Examiner indicates that the present application contains sequence disclosures that are encompassed by the definition for nucleotide sequences set forth in 37 C.F.R. 1.821(a)(1) and (a)(2) and that the present application fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicants are filing the appropriate paperwork to comply with this Notice concurrently with this Response.

### **C. Response to the Restriction and Species Election Requirement**

#### **1. Summary of Requirements**

The Examiner requests restriction between one of the following five Groups:

- (1) Group I, as exemplified by claims 2, 28, and 31, drawn to a method of protecting a subject from a toxin comprising providing an expression cassette comprising a promoter operably linked to a gene encoding PON1 type Q;
- (2) Group II, as exemplified by claim 3, drawn to a method of protecting a subject from a toxin comprising providing an expression cassette comprising a promoter operably linked to a gene encoding PON1 type R;
- (3) Group III, as exemplified by claims 32 and 33, drawn to a method of treating a subject to protect, correct or retard the progress of a neurodegenerative disease comprising providing an expression cassette comprising a promoter operably linked to a gene encoding PON1;

- (4) Group IV, as exemplified by claim 34, drawn to a method of treating a subject with atherosclerosis comprising providing an expression cassette comprising a promoter operably linked to a gene encoding PON1;
- (5) Group V, as exemplified by claim 34, drawn to a method of protecting a subject from atherosclerosis comprising providing an expression cassette comprising a promoter operably linked to a gene encoding PON1;

If Group I or II is elected, the Examiner further requests election of a species from the following: herpesviral vector, retroviral vector, adenoviral vector, adeno-associated viral vector, polyoma viral vector, and vaccinia viral vector.

## **2. Applicants' Election**

### *i. Group II is elected*

In response to the Restriction Requirement, Applicants elect Group II for further prosecution in this case. Applicants note the Examiner's observation that claims 1, 4-27, 29-30, and 35 link Groups I and II. If a linking is allowed, Applicants are entitled to examination of the non-elected inventions that are linked to the elected invention. *See* MPEP § 809.04.

### *ii. Adenovirus vector is elected*

Applicant elects adenovirus vector for the species. Applicants notes that upon the allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141(a).

## **D. Conclusion**

Applicants believes that this is a complete response to the Restriction and Species Election Requirement dated January 19, 2005. Applicants request that the pending claims be examined on their merits.

**III. Petition for a Two-Month Extension of Time:**

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition for an extension of time of two months to and including April 19, 2005, in which to respond to the Restriction and Species Election Requirement dated January 19, 2005. Pursuant to 37 C.F.R. § 1.17, a check in the amount of \$225.00 is enclosed, which is the process fee for a two-month extension of time for a small entity status.

If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/UTSD:749US.

Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3020.

Respectfully submitted,



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